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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BRAD T. REESER

Appeal 2015-001675[1]
Application 11/618,253[2]
Technology Center 3600

Before ANTON W. FETTING, NINA L. MEDLOCK, and MATTHEW S. MEYERS, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1–15. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] Our decision references Appellant's' Appeal Brief ("App. Br.," filed August 4, 2014) and Reply Brief ("Reply Br.," filed December 1, 2014), and the Examiner's Answer ("Ans.," mailed October 1, 2014) and Final Office Action ("Final Act.," mailed February 19, 2014).

[2] Appellant identifies General Motors LLC as the real party in interest. App. Br. 2.

CLAIMED INVENTION

Appellant's claimed invention "relates to techniques for wirelessly collecting vehicle information and providing that information to the vehicle owner or other authorized person" (Spec. ¶ 2).

Claims 1 and 10, reproduced below, are the independent claims on appeal and representative of the claimed subject matter:

> 1. A method of providing fleet drivers with vehicle information and messages from a fleet manager, comprising the steps of:
>
> (a) receiving at a plurality of fleet vehicles a message from a fleet manager that is sent to each of the plurality of fleet vehicles over a wireless cellular or satellite system;
>
> (b) accessing vehicle data from each of the plurality of fleet vehicles using a telematics unit on each of the vehicles in response to receiving the message from the fleet manager;
>
> (c) wirelessly transmitting the accessed vehicle data from the telematics units to a central data system in response to receiving the message from the fleet manager;
>
> (d) constructing, for each of the fleet vehicles, a notification email message containing the fleet manager's message and at least some of the accessed vehicle data obtained from that fleet vehicle, wherein the notification email message is constructed using a predefined template selected based on vehicle type; and
>
> (e) sending the notification email message for each fleet vehicle to that fleet vehicle's driver via an electronic messaging system, wherein the notification email message includes both static content obtained from the selected predefined template as well as dynamic content.

> 10. A method of providing fleet vehicle information to a fleet manager, comprising the steps of:
>
> (a) enrolling fleet vehicles as a group into an email notification system that enables a fleet manager to exchange information with the fleet vehicles;
>
> (b) obtaining a latitude and longitude coordinate pair at each of a plurality of the fleet vehicles using a GPS unit on the vehicle;
>
> (c) transmitting the latitude and longitude coordinate pair from the vehicle to a central data system that is part of the email notification system;
>
> (d) constructing an email notification message using the latitude and longitude coordinate pair transmitted to the central data system such that the email notification message is formatted into a plurality of regions one of which provides static content identifying vehicle specific information whereas another region provides dynamic content; and
>
> (e) sending the email notification message to the fleet manager using an email message generating system that is part of the email notification system.

REJECTIONS

Claims 1–15 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

Claims 1–3, 6, 7, and 9 are rejected under 35 U.S.C. § 103(a) as unpatentable over Vyas (US 2004/0073468 A1, pub. Apr. 15, 2004), Kapolka (US 2005/0060070 A1, pub. Mar. 17, 2005), and Lloyd (US 2003/0140118 A1, pub. July 24, 2003).

Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as unpatentable over Vyas, Kapolka, Lloyd, and Breen (US 2007/0143013 Al, pub. June 21, 2007).

Claim 8 is rejected under 35 U.S.C. § 103(a) as unpatentable over Vyas, Kapolka, Lloyd, and Lightner (US 7,174,243 B1, iss. Feb. 6, 2007).

Claims 10–13 are rejected under 35 U.S.C. § 103(a) as unpatentable over Breen, Vyas, and Lloyd.

Claims 14 and 15 are rejected under 35 U.S.C. § 103(a) as unpatentable over Breen, Vyas, Lloyd, and Lightner.

ANALYSIS

Non-Statutory Subject Matter

Appellant argues claims 1–15 as a group (Reply Br. 1–4). We select independent claim 1 as representative. The remaining claims stand or fall with claim 1. *See* 37 C.F.R. §41.37(c)(1)(iv).

Under 35 U.S.C. § 101, an invention is patent-eligible if it claims a "new and useful process, machine, manufacture, or composition of matter." 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: "[l]aws of nature, natural phenomena, and abstract ideas" are not patentable. *See, e.g.*, *Alice Corp. Pty Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1300 (2012), "for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of these concepts." *Alice Corp.*, 134 S. Ct. at 2355. The first step in that analysis is to "determine whether the claims at issue are directed to one of those patent-ineligible concepts," *id.*, e.g., to an abstract idea. If the claims are not directed to a patent-ineligible concept, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements of the claims are considered "individually and 'as an ordered

combination"' to determine whether there are additional elements that "'transform the nature of the claim' into a patent-eligible application." *Alice Corp.*, 134 S. Ct. at 2355 (quoting *Mayo*, 132 S. Ct. at 1297).

The Court acknowledged in *Mayo*, that "all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas." *Mayo*, 132 S. Ct. at 1293. We, therefore, look to whether the claims focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016). In this regard, the Federal Circuit has instructed that claims are to be considered in their entirety to determine "whether their character as a whole is directed to excluded subject matter." *McRO, Inc. v. Bandai Namco Games America, Inc.*, 837 F.3d 1299, 1312 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)).

The Examiner finds here that claims 1–15 are directed to a method for collecting data regarding vehicles within a vehicle fleet and providing at least some of that information to the vehicle owner or other authorized person (Ans. 4). The Examiner concludes that this amounts to a fundamental economic/business practice of asset management and that claims 1–15 are, therefore, directed to an abstract idea that is not patent-eligible (*id.*).

Appellant points to step (d) of claim 1, which calls for constructing a notification email message containing vehicle data using a predefined template selected based on vehicle type and to a substantially similar email

construction step in independent claim 10 (Reply Br. 2). And Appellant argues that the email construction steps "are not fundamental concepts — economic or otherwise — that would render these claims abstract" (*id.*). Yet the fact that the email messages are formulated in a particular way does not distract from the fact that the claims, when considered as a whole, are directed to "wirelessly collecting vehicle information and providing that information to the vehicle owner or other authorized person" (*see* Spec. ¶ 2), i.e. to an abstract idea.

We also are not persuaded that the specific way in which the email messages are formulated constitutes a meaningful limitation sufficient to transform the nature of claim 1 into a patent-eligible application of the abstract idea (Reply Br. 3–4). There is no indication that the email construction requires any non-conventional components or a non-conventional arrangement of known conventional components; nor does Appellant otherwise point to any inventive concept related to the way the email messages are constructed.

Appellant asserts that "[r]ather than identifying a generic computer to implement its steps, claim 1 recites telematics units in fleet vehicles, a central data system, and an electronic messaging system all of which are specific computer hardware" (*id.* at 3), and that claim 10 similarly recites specific computer hardware, i.e., an email message generating system, a GPS unit on a vehicle, and a central data system (*id.* at 4). Yet we find no indication in the Specification that any specialized hardware is required. Nor does Appellant point to anything in the Specification to warrant a different view.

We are not persuaded for the reasons set forth above that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 101. Therefore, we sustain the Examiner's rejection of claim 1, and claims 2–15, which fall with claim 1.

Obviousness

Independent Claim 1 and Dependent Claims 2, 3, 6, 7, and 9

We are not persuaded by Appellant's argument that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 103(a) because the combination of Vyas, Kapolka, and Lloyd does not disclose or suggest "constructing . . . a notification email message . . . using a predefined template selected based on vehicle type," as recited in claim 1 (App. Br. 5–7). Instead, we agree with, and adopt the Examiner's findings and rationale as set forth at pages 6–11 of the Answer.

Vyas is directed to a system and method for managing a fleet of vehicles, e.g., automobiles (Vyas ¶ 48), and discloses that the system allows a user to download or review status information for any or all of a subset of the machines (*id.* at ¶ 52; *see also id.* at ¶ 115 and Figs. 10–33 (displaying graphic user interfaces for accessing the system)). Vyas discloses that the system also provides the user with alerts or notifications, e.g., product maintenance recommendations, via, e.g., pagers or emails (*id.* at ¶¶ 52, 69), and further discloses taking vehicle type into account in assessing whether to issue a product maintenance recommendation email (*see id.* at ¶¶ 98–99).

Kapolka is directed to a system and method for remote vehicle diagnostics, telematics, monitoring, configuring, and reprogramming (Kapolka, Abstract), and discloses that a vehicle server translates user requests into formats specific to the vehicle to which the request is directed

(*id.* at ¶ 61). Thus, for example, the vehicle server detects the vehicle type, the vehicle bus type, and the vehicle component or sub-component that is intended as the message recipient, and then packages the message according to the specific communication protocol mandated by the recipient component (*id.*).

Lloyd discloses the use of templates for generating graphical user interfaces, and discloses that the user interface includes both static content, i.e., information that is consistent between multiple persons or entities and does not change, and dynamic content that is unique to a particular individual (Lloyd, ¶ 118; Fig. 17).

In rejecting claim 1 under 35 U.S.C. § 103(a), the Examiner relies on Vyas as disclosing the construction of email notification messages containing vehicle data, including accounting for vehicle type (*see* Ans. 7 (citing Vyas ¶¶ 52, 69, 98–99)) and on Kapolka as disclosing the translation of user requests into formats specific to the vehicle to which the request is directed, e.g., a particular vehicle type (*see id.* (citing Kapolka ¶ 61)). The Examiner cites Figures 10–33 of Vyas as disclosing graphical user interfaces including both static and dynamic content but the Examiner acknowledges that Vyas does not disclose the use of templates for generating graphical user interfaces, and cites Lloyd to cure this deficiency (*see id.* at 7–8). The Examiner then concludes that it would have been obvious to a person of ordinary skill in the art at the time of Appellant's invention to "construct a predefined template (disclosed by Alexander Lloyd) based on vehicle type (obvious in view of Kapolka's and Vyas's disclosure of vehicle type as one means of constructing messages or distinguishing a specific vehicle, respectively) into an email notification message (disclosed by Vyas)" and

that such a person would have been motivated to "construct a template using vehicle type because it avoids 'the necessity of having to create a unique [email notification message] from the ground up for each' vehicle type (see Alexander Lloyd paragraph 0007)" (Final Act. 8–9).

Appellant acknowledges that Vyas discloses providing vehicle status information, e.g., product maintenance recommendations, to a user via email (App. Br. 6). But Appellant argues that nothing in Vyas discloses or suggests that its system constructs these emails by selecting a predefined template based on vehicle type (*id.*); that neither Kapolka nor Lloyd cures this deficiency because Kapolka "determines vehicle type so that it can format messages sent to a vehicle in a way that they are understandable by the vehicle components that are to receive it" (*id.* at 6–7); and that Lloyd has nothing to do with email message templates (*id.* at 7).

Appellant's argument is not persuasive at least because Appellant effectively argues the references individually. "Non-obviousness cannot be established by attacking references individually where the rejection is based upon the teachings of a combination of references." *See In re Merck & Co.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

Appellant argues that Kapolka's disclosure of "vehicle type" relates to formatting a message to that vehicle so that the message can be understood (*see* App. Br. 6–7). Yet the Examiner cites Kapolka only for its disclosure of using "vehicle type" as a factor when deciding how to construct a message, e.g., the email message disclosed in Vyas (Ans. 10). As for Appellant's assertion that Lloyd has nothing to do with email message templates, the Examiner relies on Vyas, not Lloyd for the concept of constructing emails (*id.* at 11). Lloyd discloses the use of graphical user

interface templates, and the Examiner reasons that a person of ordinary skill in the art would appreciate that the disclosure of Lloyd could be used in the context of generating emails (*id.*).

In the absence of further explanation and/or specific, technical arguments as to why the Examiner's proposed modification is more than the predictable use of prior art elements according to their established functions, we find Appellant's arguments unpersuasive of Examiner error.

Therefore, we sustain the Examiner's rejection of independent claim 1 under 35 U.S.C. § 103(a). We also sustain the rejection of dependent claims 2, 3, 6, 7, and 9, which are not argued separately except based on their dependence from claim 1.

Dependent Claims 4, 5, and 8

Claims 4, 5, and 8 depend, directly or indirectly, from independent claim 1. Appellant does not present any arguments in support of the patentability of these dependent claims except to argue that the additional references relied on in rejecting the claims do not cure the alleged deficiency in the rejection of claim 1 (App. Br. 7–8).

We are not persuaded for the reasons set forth above that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 103(a). Therefore, we sustain the Examiner's rejections of claims 4, 5, and 8.

Independent Claim 10 and Dependent Claims 11–13

We are not persuaded by Appellant's argument that the Examiner erred in rejecting independent claim 10 under 35 U.S.C. § 103(a) because the combination of Breen, Vyas, and Lloyd does not disclose or suggest the transmission of latitude and longitude coordinates from the vehicle to a central data system and then constructing an email message using those

coordinates, i.e., limitations (b)–(e), as recited in claim 10 (App. Br. 8–10). Instead, we agree with, and adopt the Examiner's findings and rationale as set forth at pages 12–19 of the Answer.

In rejecting claim 10 under 35 U.S.C. § 103(a), the Examiner relies on Breen as disclosing the transmission of latitude and longitude coordinates from the vehicle to a central data system (Final Act. 17–18). Breen discloses, in its Background section, that prior art tracking and monitoring systems were known at the time that employed a geo-locator, e.g., a GPS receiver, to determine the location of an asset on a scheduled basis and transmit the location to a central station (Breen ¶ 4). Breen also discloses that "location data" can be in the form of latitude/longitude coordinate pairs (*id.* at ¶ 30).

The Examiner acknowledges that Breen does not disclose the sending of an email notification; that the central data system is part of the email notification system; or that the email notification message is formatted into a plurality of regions one of which provides static content identifying vehicle specific information whereas another region provides dynamic content (Final Act. 18). The Examiner relies on Vyas and Lloyd to cure these deficiencies (*id.* at 18–21). And the Examiner concludes that it would have been obvious to a person of ordinary skill at the time of Appellant's invention to (1) combine Vyas's email notification system with the method for geolocation of a fleet of vehicles disclosed in Breen in order to quickly and efficiently inform a fleet manager of the location of each vehicle in the manager's (*id.* at 19–20) and (2) incorporate the feature of generating an interface with both static and dynamic areas (as disclosed in Lloyd) into Vyas's email notification system to avoid the need to create a unique

presentation for each user, e.g., vehicle type (*id.* at 21). The Examiner, thus, concludes that the proposed combination of Breen, Vyas, and Lloyd is no more than a combination of old elements and yields a predictable result (*id.* at 19–21).

Appellant argues that Breen teaches a geofencing system in which a tracked asset transmits an alert to a central station when it cannot locate itself within locally-stored geofences, and that the Breen system is designed expressly to avoid the costly transmission of location information, such as latitude and longitude coordinates, to a central facility (App. Br. 8). Appellant, thus, maintains that the Breen system teaches the opposite of what is recited in claim 10 (*id.*).

Appellant's argument is not persuasive. Regardless of the nature of the Breen system itself, Breen plainly discloses in the "Background" section of the publication that it was known in art at the time of Breen's invention for a vehicle to transmit its location data to a central data system.

Appellant's further argument that neither Breen nor Vyas discloses or suggests an email notification message system formatted as recited in claim 10 is substantially similar to Appellant's argument with respect to claim 1 (App. Br. 11–12). Appellant argues that Lloyd does not disclose or suggest that its static and dynamic data are in any way related to the construction of email message. But Appellant does not explain why the motivation cited by the Examiner is insufficient or why the proposed modification described by the Examiner is more than the predictable use of prior art elements according to their established functions.

Based on the present record, we are not persuaded of Examiner error. Therefore, we sustain the Examiner's rejection under 35 U.S.C. § 103(a) of

independent claim 10, and dependent claims 13–15, which are not argued separately.

DECISION

The Examiner's rejection of claims 1–15 under 35 U.S.C. § 101 is affirmed.

The Examiner's rejections of claims 1–15 under 35 U.S.C. § 103(a) are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED